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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,736	07/12/2006	Kazuhiko Kishi	040894-7468	7925

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EXAMINER	
LOW, LINDSAY M	

ART UNIT	PAPER NUMBER
3721	

MAIL DATE	DELIVERY MODE
05/12/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/585,736	KISHI ET AL.	
	Examiner	Art Unit	
	LINDSAY M. LOW	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 April 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 8th, 2010 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Hazel (3,034,382).

Hazel discloses the same invention including a movable clincher 25, 29 including a clincher piece (25) that is engageable with legs 13 penetrated through sheet 17. The movable clincher 25, 29 is opposed to a striking position as seen in Fig. 3 and is rotatable (portion 29 is rotatable and the movable clincher is rotatable if the entire device is rotated). A clincher cam 43 is rotatable about a shaft 45 and has a cam surface engageable with the movable clincher via the parts and links shown in Fig. 1

(35, 33, etc.) so as to rotate the movable clincher. Note that the cam surface of the clincher cam 43 is always in connection with the movable clincher 25, 29 to continuously actuate the movable clincher and is therefore deemed to be "directly" engageable. In addition, the spring 37 provides a biasing force between the clincher cam 43 and the movable clincher 25, 29, and therefore those parts are deemed to be "engageable." The clincher cam 43 is driven through a drive link (shaft 45) directly operated by a drive mechanism (inherent in order for the cams to rotate). Regarding the terms "stapler" and "binding sheets," note that this device is certainly capable of stapling binding sheets, as the device performs the same function of penetrating a sheet with a staple-shaped component 15.

Regarding claim 2, the cam surface of the cam 43 is arc-shaped and has the same radius from the center of rotation.

Regarding claim 3, a fixed cutter 23 is interposed between the legs and a movable cutter (tip of clincher 25) moves from the outside of the legs towards the inside. The legs are guided between the movable and fixed cutters while the legs are engaged with the movable clincher (see Fig. 3). A cutter cam 43 is engageable with the movable cutter via the parts and links shown in Fig. 1 (33, 35, etc.) and capable of driving it. Note that the clincher cam and the cutter cam 43 are connected together as one integral body and are rotated about the same shaft 45. They are connected together in much the same way as applicant considers two surfaces on rotation cams 9 in applicant's drawings to be a clincher cam and a cutter cam. Different surfaces on Hazel's cams 43 enable the cutting and the clinching.

4. Alternatively, Hazel discloses the same invention including a movable clincher 31, 29 including a clincher piece 25 that is engageable with legs 13 penetrated through sheet 17. The movable clincher 31, 29 is opposed to a striking position as seen in Fig. 3 and is rotatable. A clincher cam 33 is rotatable about a shaft (pivot pins shown in Fig. 1) and has a cam surface (surface of the clincher cam 33 touching the movable clincher portion 31) directly engageable with the movable clincher (Fig. 1) so as to rotate the movable clincher. The clincher cam 33 is driven through a drive link 43 directly operated by a drive mechanism (inherent in order for the drive links 43 to rotate). Regarding the terms "stapler" and "binding sheets," note that this device is certainly capable of stapling binding sheets, as the device performs the same function of penetrating a sheet with a staple-shaped component 15.

Regarding claim 2, the cam surface of the clincher cam 33 is arc-shaped and has the same radius from the center of rotation (at the top pivot point shown in Fig. 1).

Regarding claim 3, a fixed cutter 23 is interposed between the legs and a movable cutter (tip of clincher piece 25) moves from the outside of the legs towards the inside. The legs are guided between the movable and fixed cutters while the legs are engaged with the movable clincher (see Fig. 3). A cutter cam 31, 29 is engageable with the movable cutter and capable of driving it. Note that the clincher cam and the cutter cam 31, 29 are connected together as one integral body and are rotated about the same shaft 45. They are connected together in much the same way as applicant considers two surfaces on rotation cams 9 in applicant's drawings to be a clincher cam

and a cutter cam. Different surfaces on Hazel's cams 31, 29 enable the cutting and the clinching.

Response to Arguments

5. Applicant's arguments filed April 8th, 2010 have been fully considered but they are not persuasive.

Applicant contends that Hazel's clincher cam 43 is not "directly" engageable with the movable clincher 25, 29. However, as discussed in the above rejection, the cam surface of the clincher cam 43 is always in connection with the movable clincher 25, 29 to continuously actuate the movable clincher. Therefore, the parts are deemed to be "directly" engageable. In addition, the spring 37 provides a biasing force between the clincher cam 43 and the movable clincher 25, 29, and therefore those parts are deemed to be "engageable" to the force pressing, or biasing, the parts together.

Applicant contends that Hazel does not show any drive link operated by a drive mechanism for driving a staple. However, it should be noted that claims are given their broadest reasonable interpretation consistent with the specification. In this instance, the claims state, "staple legs penetrated through binding sheets." Note that the term "penetrated," as defined by Dictionary.com, can mean "to pass through or into." Hazel's component 15 is certainly being passed through and into the sheet 17. In addition, the claims state, "a drive link directly operated by a drive mechanism for driving a staple." Drive links 45 are inherently operated by a drive mechanism in order for the cams 43 to rotate. In addition, the function of the drive mechanism is to "drive a staple." Note that

the term "drive," as defined by Dictionary.com, can mean "to cause and guide the movement of" an object. The inherent drive mechanism rotates the cams 43 by links 45. The cams 43 cause movement of the movable clincher 25, 29. The movable clincher in turn "drives" the leg portions of the staple, as the clinchers are causing and guiding the movement of the leg portions, such that they can be bent onto a back surface of sheet 17. Therefore, Hazel is deemed to anticipate the claims.

For the reasons above, the grounds of rejection are deemed proper.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. LOW whose telephone number is (571)272-1196. The examiner can normally be reached on Monday thru Friday 9:00 to 5:00pm.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. M. L./
Examiner, Art Unit 3721